



POLICE DEPARTMENT

October 11, 2012

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Jamar Lamey
Tax Registry No. 946508
Manhattan Court Section
Disciplinary Case Nos. 2011-5021 & 2011-6260

The above-named member of the Department appeared before me on July 9, 2012, charged with the following:

Disciplinary Case No. 2011-5021

1. Said Police Officer Jamar Lamey, assigned to Police Service Area #5, while on-duty, on or about June 5, 2011, having been given a lawful order by New York City Police Sergeant Elvis Suero, Tax #926368, to utilize another Member's of the Service gun belt and to take his assigned post, did wrongfully and without just cause refuse to comply with said lawful order.

P.G. 203-03, Page 1, Paragraph 2 – COMPLIANCE WITH ORDERS

2. Said Police Officer Jamar Lamey, assigned to Police Service Area #5, while on-duty, on or about June 5, 2011, was discourteous to New York City Police Sergeant Elvis Suero, Tax #926368, in that said Officer on two separate occasions did approach said Sergeant in an aggressive and threatening manner.

P.G. 203-09, Page 1, Paragraph 2 GENERAL REGULATIONS

Disciplinary Case No. 2011-6260

1. Said Police Officer Jamar Lamey, assigned to the Administrative Support Division, while off-duty, or about November 17, 2011, within the confines of the 46th Precinct, in Bronx County, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that said Officer engaged in a physical altercation with Person A.

P.G. 203-10, Page 1, Paragraph 5 GENERAL REGULATIONS

The Department was represented by Javier R. Seymore, Esq., Department Advocate's Office, and Respondent was represented by John Tynan, Esq.

Respondent, through his counsel, entered a plea of Guilty to the subject charges contained in Disciplinary Case No. 2011-5021 and testified in mitigation of the penalty. Respondent, through his counsel, entered a plea of Not Guilty to the subject charge contained in Disciplinary Case No. 2011 6260. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

Disciplinary Case No. 2011-5021

Respondent, having pleaded Guilty, is found Guilty.

Disciplinary Case No. 2011-6260

Respondent is found Guilty.

SUMMARY EVIDENCE PRESENTED

The Department's Case

The Department called Police Officer Michael McAuliffe and Police Officer Danielle Lopez as its witnesses.

Police Officer Michael McAuliffe

McAuliffe, a 12-year member of the Department, testified that on November 17, 2011, he worked from 3:00 p.m. to 11:35 p.m. with Police Officer Danielle Mastronardi¹, in uniform and in a marked radio motor patrol car (RMP) in the 46 Precinct. During the

¹ Mastronardi's surname is now Lopez as per Personnel Order No. 155 dated June 18, 2012.

tour, McAuliffe received a job from the radio dispatcher of a "10-52" (dispute) at a location [REDACTED] (later determined to be Respondent's residence). The job was then changed by the radio dispatcher to "10-39" (harassment in progress), and then to "10-13" (officer needs assistance). McAuliffe and his partner arrived at the scene in approximately 15 or 20 seconds and observed a woman (later identified as Person A, [REDACTED]) walking up and down the street who informed him that she had called the police.

McAuliffe was also met by two other people who told him they were cousins of the subject officer (Respondent). One of the cousins told McAuliffe that Respondent went up the block and that he did not have Respondent's cell phone number. McAuliffe's lieutenant then arrived at the scene and they all went up to Respondent's apartment, but he was not home. McAuliffe went downstairs, met his sergeant, and then decided to go back to Respondent's apartment. Respondent answered the door and let them in.

McAuliffe said he did not recall what he had observed when he entered Respondent's apartment, but learned that there was a verbal and physical dispute between Respondent and Person A. McAuliffe said an ambulance arrived shortly and he believed that Person A received treatment, but did not know the type of treatment.

During cross-examination, McAuliffe stated that Respondent was cooperative and did not appear to be unfit for duty. McAuliffe agreed that when he observed Person A on the sidewalk, she was behaving in an agitated manner, being uncooperative and would not tell him of any injuries that she might have sustained. McAuliffe also did not observe any visible injuries on Person A. McAuliffe agreed that "10-13" came over his radio

because either a police officer was involved or a member of the service had made the call.

Police Officer Danielle Lopez

Lopez, a five-year member of the Department, worked on November 17, 2011, with McAuliffe. She said she was the recorder and McAuliffe was the operator of the RMP. She recalled that initially they were responding to a "10-52" (dispute), and then it was upgraded to "10-39" (harassment), and then further upgraded to 10-13. When she arrived to the location she noticed Person A crying and pacing back and forth in front of the building. There was also a male and female standing off to the side, but not near Person A, who told Lopez that the police were called for their cousin, Respondent. They also told Lopez that Respondent might have gone down the block and that they did not have his cell phone number. After Lopez's sergeant and lieutenant arrived, they all went up to Respondent's apartment.

Lopez said that she noticed Person A crying but did not notice any visible injuries. She said they went up to Respondent's apartment where Respondent let them in and identified himself as a police officer. Lopez stayed in the apartment for approximately 15 minutes and did not recall seeing broken glass. She also spoke to Respondent's grandmother, Gretel Lawrence and learned that Lawrence heard a commotion outside while she was inside the apartment. Lawrence recounted that the door opened and Person A and Respondent came in and Respondent "was trying to get keys away from Person A and Person A was holding onto his shirt and he was trying to get her off and that they ended up on the couch with the grandson having his knee to her chest trying to get her hands off his clothes and then she called 911."

Lopez then went downstairs and heard Person A's account of the incident. Person A told Lopez that she was visiting [REDACTED] Lawrence, and passed by Respondent in the hallway. When she went to open the apartment door with her keys, Respondent grabbed the keys away from her, so she grabbed onto Respondent's shirt, and they both ended up in the living room and on the couch where Respondent put his knee on her chest and tried to grab the keys from her. Lopez added that Person A was crying and not calm, and that she (Lopez) had a hard time trying to get straight answers from her.

After Person A refused to go into the ambulance, Lopez drove her to the 46 Precinct in her RMP. Person A was sitting in the backseat of the RMP, crying and describing the incident to someone on her cell phone. At the precinct, Person A explained that she did not know why she and Respondent did not get along and that this "goes way back into the past." She said that she moved out of Lawrence's apartment, and that she did not really keep in contact with Respondent. Person A did not request medical attention while she was in the precinct. However, while at the scene of the incident, she had complained of pain in her finger and had asked for an ice pack.

During cross-examination, Lopez said Person A did not discuss her current or prior drug use, and seemed to be in physical distress and upset. She stated that "10 13" means that an officer needs assistance and that someone has to advise the 911 operator that an officer needs assistance. Lopez believed that Lawrence advised the 911 operator of Respondent's status as a police officer. Lopez was not aware that Respondent had also called 911 and told the operator that he was a member of the service and needed the

police to arrive at the scene. She agreed that Respondent was cooperative when they went to his apartment.

Department's Exhibit (DX) 1 is a compact disc of the 911 calls.

Respondent's Case

Respondent called Gretel Lawrence as his sole witness and Respondent testified in his own behalf.

Gretel Lawrence

Lawrence, Respondent's grandmother, resided with Respondent in November, 2011. According to Lawrence, [REDACTED], Person A, came to her residence on November 17, 2011. Person A was saying, in a loud voice, "I want to meet a real man tonight." Lawrence testified that while Respondent went to get money so that he could go to the store, she tried to hold Person A "because she always tries to make trouble when [Respondent] is there, so the way she was coming was like she up to something ... like she want to make some problem."

Lawrence said Person A came to her apartment to "make trouble" with Respondent because she (Lawrence) was not even supposed to be home at that time. Lawrence agreed that Person A tried to reach for or hit Respondent while she (Lawrence) was standing between them. Lawrence tried to hold Person A back with her arm, but could not stand too firmly because she did not have her cane and because her right foot was weak due to a stroke. Person A tried to push Lawrence away, but Lawrence pushed back and ended up breaking her (Lawrence's) finger.

Lawrence stated that Respondent tried to walk away from Person A but Person A ran behind Respondent and “catch him on the neck of the shirt [by the collar behind the neck].” Person A then “grabbed [onto a blender] but it was heavy. She couldn’t and I did not allow her to make it fall off the table, onto the ground. I grab it and then she jump to [Respondent].” She continued, “[Respondent] was trying to get away and go to his room, and right there, [Respondent] turn around. Since she insist to make some problem with [Respondent], turn around and backed up and end up in my living room.”

Person A then fell onto the couch and then Respondent “hold her there with his knee, and she on here and [Respondent] couldn’t get away” because Person A had grabbed Respondent by the front collar. Respondent asked Lawrence to call the police and waited until they arrived a few minutes later. Lawrence explained that as a result of the incident she broke her hand and required surgery and then physical therapy.

During cross-examination, Lawrence said Respondent’s 15-year-old nephew, Person B was in his bedroom and did not see or know what had happened. She said that at no point was Respondent able to get to his room and close the door. Person A had a key to the apartment because she used to take care of Lawrence after she had her surgery, but after this incident, Person A returned her key.

She said Respondent and Person A “can’t talk. She always try to look for trouble with [Respondent], and anytime she come there, she want to go in his room and I tell her: don’t go in his room, leave him alone. He doesn’t want to be bothered.” She said her neighbor did not get involved in any incident between Respondent and Person A. She stated that Person B was also in the apartment during the incident but was inside (his room) watching television.

Lawrence testified that Respondent had his knee on top of Person A and Person A had grabbed onto Respondent so Respondent was unable to let go. She said Respondent was not on top of her for too long and that she did not observe Person A bleeding because she did not get hit.

Upon being questioned by the Court, Lawrence said that Respondent's knee was by Person A's groin or leg area and he was holding her like he was taught to hold criminals on the street. Person A was on the floor and she was kicking even after Respondent had his knee on her. Lawrence did not remember if Person A used her keys to enter the apartment, but said she opened the door after she heard a loud voice. She did not know if Person A seemed to have consumed drinks and said that she reacts that way when someone bothers her. She said Person A was the first one to grab Respondent.

Respondent

Respondent, a four-year member of the Department, testified that on June 5, 2011, while assigned to Police Service Area (PSA) 5, he was unable to secure his gun belt around his waist because it was "torn from inside the - - underneath the gun holster, outward." Before roll call was conducted, he informed his supervisor, Sergeant (Elvis) Suero, of the situation. Suero told Respondent to bring him the gun belt, and then he conducted roll call while Respondent retrieved the gun belt.

After observing the damage on the gun belt, Suero ordered Respondent to wear another officer's gun belt but Respondent said, "Negative, that's a safety issue," because that officer used a Glock as his service firearm whereas Respondent used a Smith & Wesson service firearm. Suero ordered Respondent to bring his gun belt a second time so

that Sergeant DeGiacomo could inspect it. After the captain became informed of the situation, Respondent was told to put on his pancake holster and was reassigned [as the Telephone Switchboard Operator (TS)].

Respondent testified that later that day he was suspended based on what had occurred and because "the supervisor put his hands on me." He was suspended for 30 days.

Respondent stated that he had lived at the [REDACTED] apartment with his grandmother, Lawrence for 29 years. In November, 2011, [REDACTED] [REDACTED] [REDACTED] Respondent had lived separately from Person A since he was about eight or nine years old because Person A had not been home at night and he was going to school and working, and then "it became her drug issues and the fact that she was abusive."

Respondent explained that on November 17, 2011, Person A had the keys to Lawrence's apartment because Respondent was working from 6:00 p.m. to 2:35 a.m., Lawrence's health was in "limbo" and Lawrence had asked if Person A could have a key to the apartment so that she could help out since Respondent was working a lot of hours and because the nearest relative lived in Connecticut. However, before Respondent began working at night, Person A was not given the keys to the apartment because she "wasn't trusted."

Respondent said that on November 17, 2011, Lawrence let Person A into the apartment because Lawrence heard Person A yelling at him (Respondent) in the hallway. Fifteen minutes before Person A came to Lawrence's apartment, Respondent had observed Person A in a neighbor's apartment. Respondent said he went downstairs to

check on his goddaughter and saw Person A in the room. He said hello to his goddaughter and turned around and walked away, and as he walked away he heard Person A say, "See how the fuck he is." Respondent did not respond to Person A because she was "high" as he smelled marijuana in the apartment.

Respondent then went up to his apartment where his nephew had just arrived. He was going to pick up food for his nephew, but paused in the hallway to make sure he had enough money and that was when he heard Person A coming up the stairs saying, "I need a real man. You need to stop acting like a bitch." Respondent saw Person A and in response, Respondent said he smirked and proceeded to walk down the stairs, but Person A kept saying, "I need a real man."

Respondent heard Lawrence open the door to the apartment and ask what the problem was. Respondent said he had to go back to the apartment because he needed extra money and his identification card. He said "excuse me" to Person A because she was blocking the entrance to the door but Person A replied, "You can wait," and then Lawrence told Person A to stop and asked her to let Respondent in the apartment. Lawrence was 70 years old, [REDACTED] and was somewhat immobile.

Person A entered the apartment before Respondent and she placed her pocketbook and keys on the table and told Respondent, "You need to stop acting like a bitch." Lawrence continued telling Person A to leave Respondent alone. Respondent then tried to reach for Person A's keys, which were on the table, and told Person A that "you should no longer have keys to this apartment," and "as I proceeded to turn around to my grandmother to hand her the keys, she [Person A] jumped on my back and started hitting me." Lawrence pushed Person A off of Respondent's back, told Person A to leave

Respondent alone and to get out of the apartment. Lawrence was partially between Person A and Respondent.

Person A told Lawrence to “stay the fuck out of this. You always in the middle. You always try to defend him,” and then she grabbed Respondent by his shirt and pulled him closer and started to hit him on his face. Respondent reacted by grabbing her wrists so as to keep Person A from hitting him. Respondent stated that he is six feet and one inch tall and weighs approximately 174 pounds. He said Person A is approximately five feet and five inches tall and weighs approximately 140 pounds.

Respondent stated that he was unable to control Person A by her wrists and that she was using his hands to strike him on his own face. Respondent tried to guide her into the living room and onto the couch and kept telling her to stop hitting him. Respondent got Person A onto the couch where she started kicking him, but Respondent did not do anything in response to the kicking.

Respondent released Person A and started walking back to his room but Person A followed him and said, “Oh, you gonna get your gun? You gonna get you gun? What you gonna do? You gonna shoot me?” Respondent went to his room to look for his cell phone so that he could call 911 and Person A, Lawrence and his nephew followed him. Person A ran up behind Lawrence, bumped into her, and that was when Respondent “slid” by. As Respondent tried to leave the apartment, Person A picked up a blender and tried to hit him on the back of his head but Lawrence blocked the blender and tried catching it.

While Respondent was trying to unlock the door, “[Person A] throws her whole body on the door and now I can’t get out of the apartment. She puts the chain on the door. At that point my grandmother is grabbing her and telling her to get the hell out of the

apartment.” Respondent was standing by the kitchen entry way and Person A was standing against the door being held by Lawrence. Respondent walked behind Lawrence in order to get to the living room, but Person A “proceeded to push my grandmother back toward the living room to try to get at me. She’s reaching over the top of my grandmother trying to grab me.” At the same time, Lawrence was about to fall to the ground but Respondent grabbed her and “that’s when [Person A] goes crazy.”

Person A grabbed Respondent and then ended up on another couch where Person A kicked, scratched and bit Respondent. Respondent guided Person A off of the couch and onto the floor where Person A began kicking Respondent in the stomach and chest area. Respondent knelt down and placed his knee on Person A’s thigh so as to prevent her from kicking the glass table and throwing her body “violently” around. Respondent asked Lawrence to call 911, and “as I’m trying to control [Person A], my grandmother is struggling with the 911 operator because of her heavy West Indian accent,” and “[a]t this point I yell to my grandmother to give me the phone. As she’s trying to pass me the phone, [Person A] is grabbing me by the neck and by my collar and she’s trying to pull me away from there.”

Lawrence threw the phone towards Respondent; he picked it up with one hand while holding Person A with the other, and told the 911 operator that he was a police officer and that he needed assistance. While struggling with Person A, Respondent dislocated his shoulder but did not let go of her. Lawrence insisted that Respondent let go of Person A and when Respondent showed Lawrence that he was not holding Person A took that opportunity to hit Respondent on the face.

Respondent testified that he tried to hold Person A's wrists and that his "whole left side was sore," so he jumped off, grabbed the keys off the table and ran down the stairs while calling 911. Person A followed Respondent down the stairs saying, "What you gonna do? Break my car? You gonna break my car?" Respondent hid behind a couch on the third floor so that Person A could pass him and then heard Person A, while she was on the stairwell landing, telling someone on her phone, "I got him. It's over for him. I got him."

When Respondent heard Person A leave the building, he went back up to his apartment and waited for the police to arrive. He said since the incident, Person A has not returned to the apartment because he has an order of protection against her. The incident occurred on Thursday evening, Respondent was suspended Friday morning, and he obtained the order of protection on Monday.

During cross-examination, Respondent stated that he realized his gun belt was broken when he was getting dressed for roll call. He did not ask anyone else in the locker room to use their gun belt because everyone was full-duty status. He was assigned to patrol that day, which involved walking in the public housing development and walking up and down stairs. He said that his patrol uniform consists of his belt, OC spray, radio and handcuffs, and that he could go on patrol with his bulletproof vest and pancake holster if he was in plainclothes and if he had received plainclothes training.

He explained that when he said "negative," he was "not saying no, I'm not doing it, because that would be stupid of me to say no to something my superior is telling me to do," but rather, it meant that "I don't think that was a great idea." He said before saying

“negative,” he did not explain the situation to his supervisors; however, he was afforded an opportunity to explain when he was asked to bring his gun belt for the second time.

Respondent stated that there were about six other police officers in the area, who started to laugh, when Respondent said “negative,” and added that the word “negative” is commonly used in the Department. After Respondent learned that he was unable to use the other officer’s gun belt, he was approached by a supervisor who took him to the parking lot and informed him that he would be assigned to stationhouse security along 124 Street between Second and Third Avenue.

Respondent explained that he did not have a problem with his post, but did have a problem with that fact that he did not have a radio, OC spray, or handcuffs to protect himself. After learning of his assignment Respondent told Suero that he needed to take a personal break because “he was going tit-for-tat with me at this point so I wanted to separate myself from the situation calmly.” Respondent admitted that he was agitated at this point because what was occurring it was not normal protocol, as there were two or three officers who, when they had equipment issues, were assigned as to the TS.

After Respondent took his personal and while walking to his post, Suero took him to the muster room and told Respondent, “I don’t give a fuck about you and I don’t give a fuck what you care about me. If you want respect, you gotta earn respect” Respondent then told his supervisor that he did not want his respect. By this comment, Respondent explained that he meant this was not the first time “he decided to take it upon himself to disrespect me.” Respondent said that Suero then took a deep breath and told him, “You know, I can do anything I want to do to you?” to which Respondent replied, “I know,” and Suero paused and then told him to “get the fuck out of my face.”

Respondent began walking away to go to his post but Suero told him, "You're not gonna take your post. You're not gonna take your post." Respondent told Suero, "to put it on paper [to issue him a Command Discipline (CD)]." Suero then mumbled something and when Respondent turned around to ask him what he had said, Suero deliberately pushed him and he (Respondent) went back a few steps. Respondent told Suero, "Don't you ever put your fucking hands on me again," and Suero pushed him again and they stood face-to-face. Respondent looked over his shoulder and noticed two rookie officers and a camera. The rookie officers did not try to separate them.

Respondent stated that he then walked away and went to his post, but was reassigned to the TS by his captain and he also told the captain about the incident. Respondent stated that he was not within Suero's zone of safety because he was walking away from him and agreed that he raised his voice and became aggressive after Suero put his hands on him.

Respondent explained that, at the moment, it was right for him to tell Suero "to put it on paper" because "I was walking away from him and I didn't want anything to do with him at that point because I knew - - not to say I knew where it was going but it was heading in the wrong direction." Respondent said he did not speak with his union representative to help calm the situation, but he did speak to one other person, Police Officer Javon Bush, and told him, "Yo, do you believe it? This mother fucker put his hands on me." Bush told Respondent to notify the Internal Affairs Bureau but Respondent did not because he did not want to deal with retaliation.

Respondent stated that the lease to the apartment where the incident with Person A took place is under Lawrence's name. Respondent explained that he decided to take the

keys away from Person A because it was his apartment, and he took the keys off the table and was going to hand them to Lawrence and “when [Person A] comes there, she’s coming there to always instigate a situation.” He agreed that Lawrence did not ask him to get the keys from Person A. They had discussed it and that he was more for Person A not having the keys than Lawrence was.

Respondent agreed that he took it upon himself to grab Person A’s keys off the table, and it was after grabbing the keys that Person A and Respondent got into a physical altercation. Respondent stated that his name is on the family composition of the lease.

He said he rarely exercises but considers himself athletic. Respondent disagreed that he had to use his own strength to hold Person A down and also that he struck her. He said that he was unable to close the door to his room because Person A was following too closely and that even if he tried to close the door it would not have closed. Respondent stated that he wanted to leave the apartment but Person A prevented him from doing so.

Respondent testified that on one occasion, Person A cut his wrist with a plastic container and tried “bashing” him with it. Respondent stated that although he had past physical altercations with Person A, he went back upstairs to get money so that he could buy his nephew dinner. Respondent stated that he did not call his nephew because his nephew was playing video games. Respondent did not agree that the situation escalated because he took Person A’s keys off the table and asserted that Person A “already had the motives because she stated that it was long overdue. It’s long overdue. I want a real man tonight. Stop being a bitch, so she already had intentions pre situation.”

He said that based on the conversation in the hallway, he did not think that the situation would escalate into anything physical. He did not know how long Person A

stayed at the apartment when she visited Lawrence, but when he was there, Person A probably stayed for five minutes because Lawrence usually threw Person A out when Person A started arguing.

Respondent denied having raised his voice at Person A. He said that because of the plastic cover on the couch, they were sliding off and that he guided her and softly placed her on the floor. He did not know if Person A sustained bruising on her thighs, but admitted that he had scratches on his neck and did not think about receiving medical attention. He stated that he could not go to Lawrence's room because it was too far back in the apartment. Lawrence took the keys from Person A and Person A is no longer welcome at her apartment.

Upon being questioned by the Court, Respondent said Person A is approximately 46 years old and that he is 31 years old. He said Lawrence did not take out an order of protection against Person A.

During recross-examination, Respondent stated that he took out an order of protection against Person A because "he could not trust the fact that she would come by and not try to do something again and it was becoming too much."

FINDINGS AND ANALYSIS

Respondent has two cases. In the first case, he pleaded Guilty to two Specifications. Respondent has pleaded Guilty to having been given a lawful order by New York City Police Sergeant Elvis Suero to utilize another member of the service's gun belt and take it to his assigned post but he wrongfully and without just cause refused to comply with said lawful order. Respondent has also pleaded Guilty to being

discourteous to Suero in that on two separate occasions he did approach Suero in an aggressive and threatening manner.

With respect to the gun belt issue, Respondent testified that his gun belt ripped and he was instructed by Suero to wear another officer's gun belt, but Respondent stated that he could not wear that gun belt because that gun belt was for a Glock and his firearm was a Smith & Wesson. Instead of politely informing Suero of this information, he told Suero, "negative," in front of other members of the service which could have been interpreted as an insubordinate remark.

The gun belt matter could have been handled more appropriately rather than Respondent making a snide remark to his superior in front of fellow officers. And then to approach him in an aggressive manner on two, separate occasions where they came into physical contact with each other should not have occurred. Respondent testified that his superior put his hands on him, but Respondent also pleaded Guilty to approaching his superior in an aggressive and threatening manner. Respondent further testified to the profane language he used in turn when addressing his superior. Respondent has to learn to control his temperament which can lead to such unnecessary encounters.

In the second case, Disciplinary Case No. 2011-6260, Respondent stands charged with engaging in a physical altercation with Person A, [REDACTED]. Respondent testified that he has lived with his grandmother Gretel Lawrence since the age of eight, because Person A had a substance abuse problem. On the incident date, November 17, 2011, Respondent went to a neighbor's apartment to check on his goddaughter and saw Person A who appeared to be high on marijuana. There is no testimony as to how Person A gained entry into the apartment Respondent shared with Lawrence, but she did

have keys which were given to her to help Lawrence [REDACTED] and at times needed help when Respondent worked nights at the Police Department. Respondent at some point grabbed the keys that Person A had placed on a table and an altercation ensued. He attempted to go to his bedroom, but Person A followed him. He tried to get away from her by leaving the bedroom, but she tried to grab objects to throw at him. They struggled and in the process, his grandmother fractured her hand. Respondent attempted to hold a fan to prevent Person A from throwing it and he held her down using his knee. In the struggle, he dislocated his shoulder. A call was made to 911. Respondent testified that he identified himself as a police officer and called for assistance. His grandmother also testified that she called 911.

Respondent's grandmother testified on his behalf. Person A came over and attempted to start trouble. She initiated contact with Respondent. She told Person A to leave him alone but she grabbed him by the shirt collar on the couch and would not let him go. At some point during the struggle, Respondent tried to get away and as his grandmother moved from a swinging cabinet, she fractured her hand. Respondent's grandmother called the police because she could not manage the situation.

As to the physical altercation with Person A, the results were unfortunate. Respondent in an effort to get away from Person A, ended up in a physical altercation with her and his grandmother suffered a fractured hand. Again, the problem here is instead of Respondent simply getting away from Person A, he grabbed house keys that were given to her. Respondent felt Person A did not deserve to have the keys, but by his own account, they were given to Person A to help with the care of his grandmother. He had no right to seize the keys in the manner that he did which only resulted in inciting

Person A who was possibly already under the possible influence of marijuana. Although the Court understands the lifelong frustration Respondent has with Person A, he played a part in the physical altercation that resulted therefrom, including, as Respondent testified to; holding Person A down using his knee until the police arrived.

Accordingly, Respondent is found Guilty of engaging in a physical altercation.

PENALTY

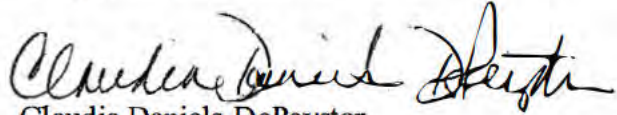
In order to determine an appropriate penalty, Respondent's service record was examined. See Matter of Pell v. Board of Education, 34 N.Y.2d 222 (1974). Respondent was appointed to the Department on January 17, 2008. Information from his personnel folder that was considered in making this penalty recommendation is contained in the attached confidential memorandum.

The Assistant Department Advocate asked for a penalty of 61 suspension days, time already served, consisting of 30 days for the gun belt incident and aggressively approaching his superior on two, separate occasions, and 31 days for the physical altercation matter. The Court agrees.

Based on the above, the recommended penalty of the Assistant Department Advocate is not, on balance, unreasonable and therefore that is the recommendation of this Court.

Accordingly, it is recommended that Respondent forfeit 61 days time already served on suspension.

Respectfully submitted,



Claudia Daniels-DePeyster
Assistant Deputy Commissioner-Trials


APPROVED

FEB 23 2013
RAYMOND W. KELLY
POLICE COMMISSIONER

POLICE DEPARTMENT
CITY OF NEW YORK

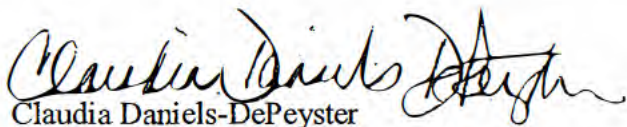
From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER JAMAR LAMEY
TAX REGISTRY NO. 946508
DISCIPLINARY CASE NOS. 2011-5021 & 2011-6260

In 2010, 2011, and 2008, Respondent received an overall rating of 4.0 “Highly Competent” on his annual performance evaluations. Respondent has received no medals in his career to date.



Respondent has no prior formal disciplinary record.

For your consideration.


Claudia Daniels-DePeyster
Assistant Deputy Commissioner Trials